

UNITED STATES DEPARTMENT OF AGRICULTURE

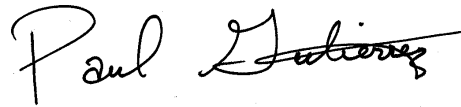
Farm Service Agency
Washington, DC 20250

Notice LP-1937

For: CMA's, LSA's, and State and County Offices

Clarifications for Barring Federal Debtors

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A Background

The Debt Collection Improvement Act of 1996 (DCIA) provides that a person owing a delinquent nontax debt to the Federal Government is **ineligible** for Federal financial assistance, including direct loans (other than disaster loans) or loan insurance or guarantees.

Producers may resolve a delinquent Federal nontax debt and become eligible to receive marketing assistance loans (MAL's) and loan deficiency payments (LDP's).

Notice LP-1930 provides policies and procedures for barring Federal debtors from obtaining MAL's and LDP's.

Notice FSFL-27 provides policies and procedures for barring Federal debtors from obtaining Farm Storage Facility Loans (FSFL's).

PSD has received several questions and concerns about DCIA and how it applies to 2003 and subsequent crop years MAL's and LDP's.

Disposal Date	Distribution
March 1, 2004	State Offices; State Offices relay to County Offices, CMA's, and LSA's

1 Overview (Continued)

B Purpose

This notice:

- bars delinquent debtors from obtaining Federal loans or loan insurance or guarantees
- clarifies that producers with a delinquent Federal nontax debt are ineligible for MAL's or LDP's if the producer's debt is in **delinquent status**
- provides alternatives to resolve delinquent Federal nontax debts
- provides general questions and answers (Exhibit 1).

2 DCIA Clarification

A Definitions

A debt is any amount of money, funds, or property that has been determined by the Federal Government to be owed to the United States or an agency thereof by a person, including debt administered by a third party as an agent for the Federal Government.

A nontax debt is any debt other than a debt under the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*).

A delinquent Federal nontax debt is a debt, other than taxes, that has not been paid by either of the following:

- payment due date, specified by the creditor agency
- end of any grace period contractually provided.

2 DCIA Clarification (Continued)

A Definitions (Continued)

Delinquent status, for the purpose of barring delinquent debtors from obtaining additional Federal loans or loan insurance or guarantees, is either of the following:

- **for Farm Loan Program debts**, a borrower who has failed to make all or part of a payment which is due for 30 or more calendar days after the due date

Note: Farm Loan Managers (FLM's) are responsible for informing County Office personnel of any farm loan delinquent debt, as applicable.

- **for Farm Program debts**, the debt is in delinquent status 90 calendar days after the date of the first demand letter. The notification letter **is not** the first demand letter.

Example: This example represents a farm programs delinquent debt. A producer owes \$1,000 resulting from an overdisbursement of MAL, and the County Office completes the following.

Step	Action	Result
1	County Offices shall send the notification letter to the producer, according to 8-LP, subparagraph 23 C.	Producer does not respond or repay MAL.
2	On day 31 after the date of the notification letter, County Offices shall: <ul style="list-style-type: none"> • send the first demand letter, according to 8-LP, subparagraph 23 F • establish a receivable in APSS for the debt. 	
3	On day 61 , 30 calendar days after the date of the first demand letter, County Offices shall transfer the receivable to claims and establish a claim according to 58-FI.	<ul style="list-style-type: none"> • Producer does not respond or repay MAL. • All other administrative actions regarding claims are applicable according to 58-FI.
4	On day 91 after the date of the first demand letter, the debt is now in delinquent status, County Offices shall follow procedures in 58-FI.	<p>For purposes of this notice only, the debt is now in delinquent status and the producer is ineligible for MAL and/or LDP until the producer resolves the delinquent debt.</p> <p>Important: The delinquent Federal nontax debt must be resolved before the final loan availability date.</p>

2 DCIA Clarification (Continued)

B Resolving Delinquent Federal Nontax Debt

Producers with a delinquent Federal nontax debt are ineligible to receive the MAL disbursement or payment from LDP **until** the delinquent debt is resolved.

A delinquent Federal nontax debtor **may** resolve the debt and become **eligible** for MAL's and LDP's if the producer does, but is not limited to, any of the following:

- pays or otherwise satisfies the delinquent amount of the Federal nontax debt in full
- pays the amount of a compromise reached with the creditor agency
- cures the delinquency (that is, brings the loan or agreement current) under terms acceptable to the creditor agency
- assigns the LDP to the delinquent Federal nontax debt and resolves the delinquency
- enters into a repayment agreement under terms acceptable to the creditor agency. For instance, if a delinquent FLP borrower, both FLM and CED must agree to the repayment agreement.

For DCIA purposes, a debt **is not** in delinquent status if:

- the person requesting MAL or LDP has been released of the obligation to pay the debt by the creditor agency
- there has been an adjudication or determination that the debtor does not owe or does not have to pay the debt
- the debt has been discharged in a bankruptcy proceeding.

C Unresolved Delinquent Federal Nontax Debt

A producer is ineligible to receive MAL's or LDP's if the producer has an unresolved delinquent Federal nontax debt. A debt is **unresolved** even if:

- collection action is suspended or terminated
- the debt is written off on any Federal agency's accounting records
- the debt has been reported to the Internal Revenue Service as a discharge of indebtedness ("closed out").

2 DCIA Clarification (Continued)

C Unresolved Delinquent Federal Nontax Debt (Continued)

Producers with unresolved delinquent Federal nontax debt must contact the creditor agency they are and/or were indebted to and resolve the delinquent Federal nontax debt to become eligible for MAL's or LDP's.

D MAL or LDP Requests Received Before Notice LP-1930

Producers who filed MAL or LDP requests before July 3, 2003, must self-certify to the DCIA question on revised MAL and LDP forms. County Offices shall:

- provide producers with a revised MAL and/or LDP form that includes the DCIA question
- request the producer to answer the DCIA question, sign, date, and return the form to the applicable County Office within 10 business days
- attach the returned revised MAL and/or LDP form to the original request and file in the producer's applicable MAL or LDP folder.

For a producer who **cannot** self-certify, hold the request until the final loan availability date. If the delinquent Federal nontax debt:

- has been resolved, approve the application and use the rate in effect on the day the original request was made
- is unresolved, disapprove the request.

E MAL's or LDP's Issued Before July 3, 2003

For MAL's and/or LDP's that were issued before July 3, 2003, County Offices shall:

- provide producers with a revised MAL and/or LDP form that includes the DCIA question
- request the producer to answer the DCIA question, sign, date, and return the form to the applicable County Office within 10 business days
- attach the returned revised MAL and/or LDP form to the original request and file in the producer's applicable MAL or LDP folder.

If the producer indicates that he has an unresolved delinquent Federal nontax debt, the County Office may provide and/or discuss with the producer alternatives to resolve the delinquent Federal nontax debt.

2 DCIA Clarification (Continued)

E MAL's or LDP's Issued Before July 3, 2003 (Continued)

If the producer **does not** agree to resolve the delinquent Federal nontax debt before the final loan availability date, the County Office **must** immediately notify the delinquent Federal debtor that MAL **must** be repaid at principal plus interest and/or the LDP **must** be refunded with interest.

3 Action

A State Office Action

State Offices shall notify County Offices immediately of the contents of this notice.

B County Office Action

County Offices:

- **shall:**
 - notify all producers immediately of the contents of this notice
 - request the list of delinquent FLP borrowers from FLM's, as applicable
 - maintain open communications between all personnel in the County Offices regarding the contents of the notice
 - ensure that all eligible internal delinquent Federal nontax debt has been transferred to claims and appropriate flags have been set
 - ensure that producers requesting MAL's and LDP's meet all other eligibility requirements
- **shall not** approve MAL's or LDP's for producers who:
 - **cannot** self-certify
 - are in **delinquent status**
 - are known to have other unresolved delinquent Federal nontax debts.

Questions and Answers

Are delinquent producers who enter into Federal agency-approved payment agreements eligible for MAL's and LDP's if the producer is current on the payment agreement?

Yes. The producer is eligible if the producer is able to become current with the approved payment agreement on or before the date MAL's and LDP's are issued.

If a producer assigns the MAL disbursement or payment from LDP to cover part or all of the producer's delinquent Federal nontax debt, can MAL or LDP be issued?

Yes, as long as an approved payment agreement has been completed according to 58-FI and the MAL disbursement or payment from LDP will resolve the delinquent debt at the time MAL or LDP is issued. For example, if a producer has a \$1,000 delinquent Federal nontax debt, the producer must enter into an approved payment agreement and agree to assign the \$800 payment from LDP and pay the difference of \$200 to resolve the delinquent debt on or before LDP is issued.

Is a producer considered delinquent if there is a receivable established under FP?

No. For purposes of this notice, an FP producer is only considered delinquent if the debt is not repaid within 90 calendar days after the date of the first demand letter.

If a producer has an unresolved delinquent Federal nontax debt, can the producer lock in on CCC-697?

No. If the producer has an unresolved delinquent Federal nontax debt, the producer can **only** repay at principal plus interest.

If a producer requests CCC-709 before harvest and it is discovered that the producer has a delinquent Federal nontax debt, before LDP is paid and the producer resolves the delinquent Federal nontax debt, is CCC-709 still valid?

Yes, CCC-709 is valid **if** the producer has resolved the delinquent debt on or before payment of LDP and on or before the final loan availability date. The LDP rate will be the rate in effect on the date of delivery or harvest for fed commodities.

If a producer has filed CCC-633 LDP and it is discovered that the producer has a delinquent Federal nontax debt, is CCC-633 LDP still valid?

Yes, CCC-633 LDP may be honored based on the date of the request **if** the producer has resolved the delinquency on or before payment from LDP and on or before the final loan availability date. The LDP rate will be the rate in effect on the date of request.

If an FSFL borrower is delinquent for DCIA purposes according to Notice FSFL-27, is the producer eligible for MAL' or LDP's?

Yes, but only if the borrower resolves the FSFL delinquent debt according to subparagraph 2 B.